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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/548,862	04/13/00	CRONK	P 102055-0008P

MMC2/0508

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EXAMINER

TON, A

ART UNIT	PAPER NUMBER

2875

DATE MAILED:

05/08/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/548,862	CRONK, PAUL ANDREW
	Examiner Anabel M Ton	Art Unit 2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 April 2000.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-11 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.  
 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- 15) Notice of References Cited (PTO-892)  
 16) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

- 18) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.  
 19) Notice of Informal Patent Application (PTO-152)  
 20) Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Regarding claim 6, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4,6,7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kikuchi (5,711,218).
6. With regards to "adapted to" in claims 1 and 2 it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only

requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

7. Kikuchi discloses a shielding device being substantially v-shaped and perforated (22, 27, col.3 lines 2-3), the lighting device is placed on an opposite side of a lighting means relative to a reflector device associated with the lighting means (fig. 1), the shielding device acts to at least partly deflect heat and or light emitted from the lighting device, the perforations are embodied in a patterned manner (fig 7), the nature or and extent of the perforation of the shielding device is predetermined to control the amount of radiation deflected by the shielding device (col. 5, lines 10-15), the ends of the device are shaped such that the overall shape of the device is "house roof shaped: (col. 3 line 44).

#### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 5 and 8,9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi.

10. With regards to claim 5, although the prior art cited does not disclose the extent of perforation of the shielding device to be predetermined, it would have been obvious to one of ordinary skill in the art at the time the invention was made to do so as to have a desired radiation emission for a desired effect.

11. With regards to claim 8, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the reflector device adjustable, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954).

12. With regards to claim 9, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement a double parabolic shaped reflector device, since applicant has not disclosed that a double parabolic shaped reflector device solves any stated problem to is for any particular purpose and it appears that the invention would perform equally well with any reflector device for the applicant states in page 4, line 14, that "it (the reflector) should be any size shape or width of double parabolic or similar shape should be considered to fall within the scope of the invention".

13. With regards to claim 11, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement a method of controlling the extend of radiation emitting from the light source using a shielding device, for without a method, for a method would need to be implemented to control the radiation emitted or for that matter for implementing any sort of controlling specifics to any invention.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Minissi et al, Chang and Peralta et al.

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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M Ton whose telephone number is (703) 305-1084. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3431 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Anabel M Ton  
Examiner  
Art Unit 2875

AMT  
May 3, 2001

*Stephen F. Husar*  
Stephen Husar  
Primary Examiner